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2000 DEC -1 P 4: 42

December 1, 2000

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street N.W.
Washington, DC 20463

Re: MUR 5126

Dear Mr. Noble:

This is the response of the Democratic Congressional Campaign Committee and David Plouffe, as Treasurer, ("DCCC") to the complaint filed by the National Republican Congressional Committee ("NRCC") against Mike Ross for Congress Committee and W. Herman Brown, Treasurer (collectively, the "Campaign"), alleging violations of the Federal Election Campaign Act ("the Act"). The complaint is without merit and should be dismissed.

The Act allows a multicandidate committee like the DCCC to contribute up to \$5,000 per election to a campaign. See 2 U.S.C. § 441a(a)(2)(A). Since separate limits apply to primary, runoff and general elections, the DCCC could have contributed up to \$5,000 to the campaign for each of these elections. See 2 U.S.C. §§ 431(1)(A) and 441a(a)(6). Indeed, for the three separate elections in which the campaign was active, the DCCC contributed a total of \$14,500, which is less than it could have given.

On June 12, 2000, the DCCC contributed \$4,500 to the campaign to retire its primary election debts. The DCCC understood from the campaign that it had net primary debts outstanding. The public record supported such an understanding, for as the NRCC itself acknowledges, the campaign disclosed debts and obligations of \$15,000 on its May 11 and June 1 financial disclosure statements. Consequently, there was no basis for the DCCC to conclude that the campaign had no primary debt.

As the NRCC surely knows, the fact that the campaign disclosed cash-on-hand of \$27,102.03 on its June 1 report has nothing to do with whether it had net primary debts. While the Act allows a campaign to raise funds for the general election before winning the nomination, it requires the campaign to segregate those funds. See 11

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C.F.R. § 102.9(e). Accordingly, when calculating net debts outstanding for a primary election, a campaign need not include its general election contributions. See 11 C.F.R. § 110.1(b)(3)(ii)(A)-(B). Consequently, the NRCC's complaint fails to present any reason why the DCCC would have doubted the existence of net primary election debt.

Yet even if there had been no net primary debts, the burden would have been on the campaign to return the DCCC's contribution or seek a redesignation. See 11 CFR 110.1(b)(3)(i). Only the Ross campaign was in a position to know whether the DCCC's contribution exceeded its net debts outstanding. Because the campaign neither refunded the contribution nor sought a redesignation, the DCCC properly assumed that the campaign actually had net primary debts when it made its contribution.

In the end, this is a politically motivated complaint, a fact demonstrated by the NRCC's legally irrelevant claim that "the DCCC purposefully waited until the very last minute to contribute to a Democrat candidate in this race." Compl. at 2. Because the complaint presents no violation of the Act, the DCCC respectfully requests the Commission to dismiss it.

Very truly yours,



Brian G. Svoboda
Jason C. Rylander
Counsel to the DCCC

STATEMENT OF DESIGNATION OF COUNSEL

MUR 5126

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The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

Date

11/29/00

Signature



RESPONDENT'S NAME: David Plouffe

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